

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5765 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
Nos. 1 to 5 No.

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NARESH MANGALARAM PRAJAPATI

Versus

STATE OF GUJARAT

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Appearance:

MR.H.R.PRAJAPATI FOR M/S THAKKAR ASSOC. for Petitioner  
MR.NEEGAM SHUKLA, AGP for Respondents.

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 11.6.1996 passed by the Police Commissioner, Ahmedabad City whereby the petitioner has been detained under the provisions of Gujarat Prevention of Antisocial Activities Act, 1985. The detention order was executed on 11.6.1996 and since then the petitioner is under detention lodged at Rajkot District Jail,

Rajkot.

This Special Civil Application was filed on 2.8.1996 and on 5.8.1996 Rule returnable for 2.9.1996 was issued. No reply or the affidavit of the Detaining Authority has been filed. The grounds enclosed with the detention order show that two criminal cases for the offences under IPC Chapters 16 and 17 were registered against the petitioner. Besides this the Detaining Authority has taken into consideration the statements made by certain witnesses against the petitioner's antisocial activities with regard to the incidents dated 12.5.1996 and 10.5.1996. The petitioner has been found to be a headstrong person and has been detained as dangerous person.

The detention order has been challenged on more than one grounds but the learned counsel for the petitioner has submitted that it is not a case of breach of law and order. Strong reliance has been placed on the Supreme Court decision in the case of M.J.Shaikh Vs. M.M.Mehta reported in 1995(2) GLR Pg.1268 [Mustakmiya's case]. It is clear that it is not a case of breach of public order. The impugned order of detention therefore deserves to be quashed and set aside.

Accordingly this Special Civil Application is allowed. The impugned detention order dated 11.6.1996 passed by the Police Commissioner, Ahmedabad City is hereby quashed and set aside. The petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith if not required in any other case. Rule is made absolute.

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